

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS, )  
by KWAME RAOUL, Attorney )  
General of the State of Illinois, )  
                                  )  
                                  )  
Complainant,                 )  
                                  )  
                                  )  
v.                             )      PCB No. 2024-  
                                  )      (Enforcement-Air)  
HAWKINS, INC., a Minnesota corporation, )  
d/b/a VERTEX CHEMICAL CORPORATION,    )  
                                  )  
                                  )  
Respondent.                 )

**NOTICE OF FILING**

TO: See attached service list

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint, Stipulation and Proposal for Settlement and Motion for Relief from Hearing Requirements, copies of which are attached and hereby served upon you. **You may be required to answer the charges of the Complaint at a hearing before the Board, at a date set by the Board.**

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the clerk's office, or an attorney.

**NOTIFICATION - YOU ARE HEREBY NOTIFIED** that financing may be available through the Illinois Environmental Facilities Financing Act [20 ILCS 3515/1, et seq.] to correct the alleged violations.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,  
KWAME RAOUL, Attorney General  
of the State of Illinois

By: /s/Kevin D. Barnai  
Kevin D. Barnai, #6329422  
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Date: July 19, 2023

**Service List**

**For the Respondent**

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Hawkins, Inc. d/b/a Vertex Chemical Corporation  
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Hawkins, Inc. d/b/a Vertex Chemical Corporation  
c/o Ryan Giacoletto, Plant Manager  
3101 Carondolet Avenue  
Dupo, IL 62239  
*(via certified mail)*

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS, )  
by KWAME RAOUL, Attorney )  
General of the State of Illinois, )  
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                                    )        (Enforcement-Air)  
HAWKINS, INC., a Minnesota corporation, )  
d/b/a VERTEX CHEMICAL CORPORATION, )  
                                    )  
                                   Respondent. )

**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency, complains of the Respondent, HAWKINS, INC., a Minnesota corporation, d/b/a VERTEX CHEMICAL CORPORATION, as follows:

**COUNT I**  
**OPERATION OF UNPERMITTED EMISSION SOURCES**

1. This Count is brought on behalf of the People of the State of Illinois, by Kwame Raoul, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2022).

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2022), and is charged, *inter alia*, with the duty of enforcing the Act.

3. Respondent, HAWKINS, INC. (“Respondent” or “HAWKINS”), is a Minnesota corporation in good standing and authorized to do business in the State of Illinois by the Illinois Secretary of State, and does business under the name VERTEX CHEMICAL CORPORATION.

4. At all times relevant to this Complaint, and beginning in January 2011, Respondent is and was the owner and operator of a facility located at 3101 Carondolet Avenue, Dupo, St. Clair County, Illinois (“Facility”). At the Facility and on dates better known to Respondent, Respondent has manufactured and distributed bleach, methanol-based windshield washer fluid, and antifreeze.

5. At all times relevant to this Complaint and on dates better known to Respondent, the Facility’s operations have included windshield wash tank filling, antifreeze tank filling, ethanol tank filling, bleach tank filling, a bottling line for product filling and unpaved roads (collectively, “Emission Units”). The Emission Units were installed by a previous owner of the Facility.

6. The Emission Units emit volatile organic matter (“VOM”), fugitive particulate matter (“PM”), and methanol, a hazardous air pollutant (“HAP”).

7. On November 7, 2019, Illinois EPA inspected the Facility and observed the Emission Units.

8. As of Illinois EPA’s November 7, 2019 inspection, Illinois EPA had not issued an operating permit authorizing the operation of the Emission Units.

9. As of Illinois EPA’s November 7, 2019 inspection, Respondent had never submitted to Illinois EPA Annual Emission Reports (“AERs”) for the Emission Units.

10. As of Illinois EPA’s November 7, 2019 inspection, Respondent had never paid annual fees to Illinois EPA for the Emission Units.

11. On July 13, 2020, Respondent submitted to Illinois EPA AERs for the Emission Units for operating years 2011 through 2019.

12. On November 10, 2020, Illinois EPA determined Respondent's application for an operating permit for the Emission Units to be administratively complete.

13. Section 9(b) of the Act, 415 ILCS 5/9(b) (2022), provides as follows:

No person shall:

(b) Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution, of any type designated by Board regulations, without a permit granted by the Agency unless otherwise exempt by this Act or Board regulations or in violation of any conditions imposed by such permit.

14. Section 3.315 of the Act, 415 ILCS 5/3.315 (2022), provides the following definition:

“Person” means any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

15. Respondent, a corporation, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).

16. Section 3.115 of the Act, 415 ILCS 5/3.115 (2022), provides the following definition:

“Air pollution” is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

17. Section 3.165 of the Act, 415 ILCS 5/3.165 (2022), provides the following definition:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

18. VOM, PM, and methanol are each a “contaminant” as that term is defined under Section 3.165 of the Act, 415 ILCS 5/3.165 (2022).

19. Because the Emission Units emit, emitted, and/or are capable of emitting VOM, PM, and/or methanol to the atmosphere, the Emission Units are capable of causing or contributing to air pollution.

20. Beginning in January 2011, and on dates better known to Respondent, Respondent failed to obtain an operating permit for the Facility’s Emission Units from Illinois EPA.

21. By continuing to operate the Facility’s Emission Units without having obtained the required operating permit from Illinois EPA, Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2022).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, HAWKINS, INC. d/b/a VERTEX CHEMICAL CORPORATION, for the following relief:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that the Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2022);

C. Ordering the Respondent to cease and desist from any further violations of Sections 9(b) of the Act, 415 ILCS 5/9(b) (2022), including but not limited to by paying all past due annual fees to the Illinois EPA;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022), assessing against the Respondent a civil penalty of \$50,000.00 for each violation of the Act and Board Regulations,

and an additional civil penalty of \$10,000.00 for each day each violation continued;

E. Ordering the Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

F. Ordering such other and further relief as the Board deems appropriate and just.

**COUNT II**

**OPERATING A MAJOR STATIONARY SOURCE WITHOUT A CAAPP PERMIT**

1. This Count is brought on behalf of the People of the State of Illinois, by Kwame Raoul, Attorney General of the State of Illinois, on his own motion, pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2022).

2-18. Complainant re-alleges and incorporates by reference herein paragraphs 2 through 12 and 14 through 19 of Count I as paragraphs 2 through 18 of this Count II.

19. Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2022), provides as follows:

6. Prohibitions

b) After the applicable CAAPP permit or renewal application submittal date, as specified in subsection 5 of this Section, no person shall operate a CAAPP source without a CAAPP permit unless the complete CAAPP permit or renewal application for such source has been timely submitted to the Agency.

20. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2022), provides the following definitions:

“CAAPP” means the Clean Air Act Permit Program, developed pursuant to Title V of the Clean Air Act.

“CAAPP Permit” or “permit” (unless the context suggests otherwise) means any permit issued, renewed, amended, modified or revised pursuant to Title V of the Clean Air Act.

“CAAPP source” means any source for which the owner or operator is required to obtain a CAAPP permit pursuant to subsection 2 of this Section.

“Emission unit” means any part or activity of a stationary source that emits or has the potential to emit any air pollutant. This term is not meant to alter or affect the definition of the term “unit” for purposes of Title IV of the Clean Air Act.

“Major source” means a source for which emissions of one or more air pollutants meet the criteria for major status pursuant to paragraph (c) of subsection 2 of this Section.

“Owner or operator” means any person who owns, leases, operates, controls, or supervises a stationary source.

“Potential to emit” means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by USEPA. This definition does not alter or affect the use of this term for any other purposes under the Clean Air Act, or the term “capacity factor” as used in Title IV of the Clean Air Act or the regulations promulgated thereunder.

“Source” means any stationary source (or any group of stationary sources) that is located on one or more contiguous or adjacent properties that are under common control of the same person (or persons under common control) and that belongs to a single major industrial grouping.

“Stationary source” means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under Section 112(b) of the Clean Air Act, except those emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in Section 216 of the Clean Air Act.

21. Section 39.5(2) of the Act, 415 ILCS 5/39.5(2) (2022), provides, in pertinent part,

as follows:

2. Applicability.

- a. Sources subject to this Section shall include:

- i. Any major source as defined in paragraph (c) of this subsection.

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- c. For purposes of this Section the term "major source" means any source that is:

- i. A major source under Section 112 of the Clean Air Act, which is defined as:

- A. For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to Section 112(b) of the Clean Air Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as USEPA may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such stations are major sources.

22. Section 112(b)(1) of the federal Clean Air Act, 42 U.S.C. 7412(b)(1), provides, in

pertinent part, as follows:

(b) List of pollutants.

- (1) Initial list. The Congress establishes for purposes of this section a list of hazardous air pollutants as follows:

CAS number	Chemical Name
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*	*	*
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67561	Methanol
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23. During the November 7, 2019 inspection, Illinois EPA reviewed records of the Facility's historic use of the Emission Units, as well as records concerning the chemical content of the Emission Units.

24. Beginning no later than November 7, 2019, and on dates better known to Respondent, the Facility had the potential to emit more than 10 tons of methanol per year.

25. Because the Facility is a building that emits pollutants listed under Section 112(b) of the Clean Air Act, it is a "stationary source" as that term is defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2022).

26. Respondent is an "owner or operator" of the Facility, as that term is defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2022).

27. Beginning no later than November 7, 2019, and on dates better known to Respondent, the Facility has had the potential to emit 10 tons or more per year of an individual HAP.

28. Beginning no later than November 7, 2019, and on dates better known to Respondent, the Facility has been and is a "major source" as that term is defined in Section 39.5(2)(c)(i) of the Act, 415 ILCS 39.5(2)(c)(i) (2022).

29. Because the Facility is a "major source," the Facility is subject to the Clean Air Act Permit Program ("CAAPP") set forth in Section 39.5 of the Act, 415 ILCS 5/39.5 (2022).

30. Section 39.5(x) of the Act, 415 ILCS 5/39.5(x) (2022), provides in pertinent part as follows:

5. Applications and Completeness.

\* \* \*

x. The owner or operator of a new CAAPP source shall submit its complete CAAPP application consistent with this subsection within 12 months after commencing operation of such source...

31. Respondent was required to submit a complete CAAPP permit application within twelve (12) months after commencing operation of the Facility as a major source with potential to emit greater than 10 tons of an individual HAP or 25 tons of combined HAPs.

32. Respondent failed to submit a complete application for a Federally Enforceable State Operating Permit (“FESOP”) under the CAAPP program to Illinois EPA until November 10, 2020.

33. Beginning no later than November 7, 2019, and on dates better known to Respondent, Respondent has operated the Facility, a major source, without the requisite CAAPP Permit.

34. By operating a major source without the requisite CAAPP Permit, Respondent violated Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2022).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, HAWKINS, INC. d/b/a VERTEX CHEMICAL CORPORATION, for the following relief:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

- B. Finding that the Respondent has violated Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2022);
- C. Ordering the Respondent to cease and desist from any further violations of Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2022);
- D. Pursuant to Section 42(b)(5) of the Act, 415 ILCS 5/42(b)(5) (2022), assessing against the Respondent a civil penalty of \$10,000.00 for each day the violation continued;
- E. Ordering the Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and
- F. Ordering such other and further relief as the Board deems appropriate and just.

**COUNT III**  
**FAILURE TO TIMELY SUBMIT ANNUAL EMISSION REPORTS**

1. This Count is brought on behalf of the People of the State of Illinois, by Kwame Raoul, Attorney General of the State of Illinois, on his own motion, pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2022).

2-18. Complainant re-alleges and incorporates by reference herein paragraphs 2 through 12 and 14 through 19 of Count I as paragraphs 2 through 18 of this Count III.

19. Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), provides as follows:

No person shall:

(a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

20. Section 201.302(a) of the Board’s Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), provides as follows:

- a) The owner or operator of any emission unit or air pollution control equipment meeting the applicability criteria contained in 35 Ill. Adm. Code 254.102 shall submit to the Agency as a minimum, annual reports detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions; provided, however, that the Agency may require more frequent reports when necessary to accomplish the purposes of the Act and this Chapter.

21. Section 254.102(a)(2) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm.

Code 254.102(a)(2), provides as follows:

- a) Subpart B of this Part applies to:

\* \* \*

- 2) Owners or operators of any source required to have an operating permit in accordance with Section 39.5 of the Environmental Protection Act [415 ILCS 5/39.5];

\* \* \*

22. Respondent is required to have an operating permit in accordance with Section 39.5 of the Act, 415 ILCS 5/39.5 (2022), and, therefore, meets the applicability requirement in Section 254.102(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.102(a).

23. Section 254.132(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), provides as follows:

- a) Failure to file a complete Annual Emissions Report by the applicable deadlines prescribed in Section 254.137(a) of this Subpart shall be a violation of this Part and 35 Ill. Adm. Code 201.302(a).

24. Section 254.137(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.137(a), provides as follows:

- a) All Annual Emissions Reports are due by May 1 of the year following the calendar year in which the emissions took place.

25. Section 211.4370 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 211.4370, provides the following definition:

“Owner or operator” means any person who owns, operates, leases, controls, or supervises a source, an emission unit or air pollution control equipment.

26. Section 211.1950 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 211.1950, provides the following definition:

“Emission unit” means any part or activity at a stationary source that emits or has the potential to emit any air pollutant.

27. Section 211.6370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.6370, provides the following definition:

“Stationary source” means any building, structure, facility or installation that emits or may emit any air pollutant.

28. The Facility is a “stationary source” as that term is defined in Section 211.6370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.6370.

29. The windshield wash tank filling, antifreeze tank filling, ethanol tank filling, bleach tank filling, bottling line for product filling, and unpaved roads are each an “emission unit” as that term is defined in Section 211.1950 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 211.1950.

30. Respondent is an “owner or operator,” as that term is defined in Section 211.4370 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 211.4370, of the Emission Units at the Facility and, therefore, was required to submit AERs to the Illinois EPA, by May 1 of the following calendar year in which the emissions took place pursuant to Section 254.137(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.137(a).

31. Respondent submitted an AER for the year 2020 on September 13, 2021, to the Illinois EPA. This AER was submitted to Illinois EPA approximately 135 days late.

32. By failing to timely submit AERs for the Facility for the operating years 2011 through 2020 to the Illinois EPA, Respondent violated Section 201.302(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a).

33. By violating Section 201.302(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), Respondent thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, HAWKINS, INC. d/b/a VERTEX CHEMICAL CORPORATION, for the following relief:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that the Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), Section 201.302(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a);

C. Ordering the Respondent to cease and desist from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), Section 201.302(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA Air

Pollution Regulations, 35 Ill. Adm. Code 254.132(a);

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022), assessing against the Respondent a civil penalty of \$50,000.00 for each violation of the Act and Board Regulations, and an additional civil penalty of \$10,000.00 for each day each violation continued;

E. Ordering the Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

F. Ordering such other and further relief as the Board deems appropriate and just.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,  
by KWAME RAOUL, Attorney General  
of the State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

BY: /s/ Andrew Armstrong  
ANDREW ARMSTRONG, Chief  
Environmental Bureau  
Assistant Attorney General  
(ARDC #6282447)

Kevin D. Barnai (ARDC #6329422)  
Assistant Attorney General  
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Illinois Attorney General's Office  
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Kevin.Barnai@ilag.gov

Dated: July 19, 2023

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
by KWAME RAOUL, Attorney	)	
General of the State of Illinois,	)	
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Complainant,	)	
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v.	)	PCB No. 2024-
	)	(Enforcement-Air)
HAWKINS, INC., a Minnesota corporation,	)	
d/b/a VERTEX CHEMICAL CORPORATION,	)	
	)	
Respondent.	)	

**STIPULATION AND PROPOSAL FOR SETTLEMENT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency (“Illinois EPA”), and HAWKINS, INC., a Minnesota corporation, d/b/a VERTEX CHEMICAL CORPORATION (“Respondent”), (collectively “Parties to the Stipulation”), have agreed to the making of this Stipulation and Proposal for Settlement (“Stipulation”) and submit it to the Illinois Pollution Control Board (“Board”) for approval. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board’s approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/1, et seq. (2022), and the Board’s regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

**I. STATEMENT OF FACTS**

**A. Parties**

I. Contemporaneously with this Stipulation, a Complaint was filed on behalf of the

People of the State of Illinois by KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2022), against the Respondent.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2022).

3. At all times relevant to the Complaint, Respondent was and is a Minnesota corporation in good standing and authorized to do business in the State of Illinois by the Illinois Secretary of State, and does business under the name VERTEX CHEMICAL CORPORATION.

4. At all times relevant to the Complaint, and beginning in January 2011 and on dates better known to Respondent, Respondent was and is the owner and operator of a facility located at 3101 Carondolet Avenue, Dupo, St. Clair County, Illinois ("Facility"). At the Facility and on dates better known to Respondent, Respondent manufactured and distributed bleach, methanol-based windshield washer fluid, and antifreeze.

5. At all times relevant to this Complaint and on dates better known to Respondent, the Facility's operations include or included windshield wash tank filling, antifreeze tank filling, ethanol tank filling, bleach tank filling, a bottling line for product filling and unpaved roads (collectively, "Emission Units"). The Emission Units were installed by a previous owner of the Facility.

**B. Allegations of Non-Compliance**

Complainant contends that the Respondent has violated the following provisions of the Act and Board regulations:

Count I: OPERATION OF UNPERMITTED EMISSION SOURCES  
Section 9(b) of the Act, 415 ILCS 5/9(b) (2022)

Count II: OPERATING A MAJOR STATIONARY SOURCE WITHOUT A

CAAPP PERMIT

Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(b) (2022)

Count III	<p><u>FAILURE TO TIMELY SUBMIT ANNUAL EMISSION REPORTS</u></p> <p>Section 201.302(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a);</p> <p>Section 254.132(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a); and</p> <p>Section 9(a) of the Act, 415 ILCS 5/9(a) (2022).</p>
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**C. Non-Admission of Violations**

The Respondent represents that it has entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, the Respondent does not affirmatively admit the allegations of violation within the Complaint and referenced within Section I.B herein, and this Stipulation shall not be interpreted as including such admission.

**D. Compliance Activities to Date**

1. On July 13, 2020, Respondent submitted to Illinois EPA Annual Emissions Reports ("AERs") for the Emission Units for operating years 2011 through 2019.
2. On September 13, 2021, Respondent submitted to Illinois EPA an AER for operating year 2020.
3. On November 10, 2020, Illinois EPA determined Respondent's application for an operating permit for the Emission Units to be administratively complete.
4. On May 12, 2023, Respondent ceased operation of the methanol operations associated with production of windshield washer fluid at the Facility.

**II. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation

the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against the Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2022).

### **III. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE**

Section 33(c) of the Act, 415 ILCS 5/33(c) (2022), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Parties to the Stipulation state the following:

1. Human health and the environment were threatened and the Illinois EPA's information gathering responsibilities hindered by the Respondent's violations.
2. There is social and economic benefit to the Facility.
3. Operation of the Facility was and is suitable for the area in which it is located, so long as it is operated in compliance with the Act and Board regulations.

4. Obtaining the required permit for the Facility and complying with its terms were both technically practicable and economically reasonable.

5. Respondent has subsequently complied with the Act and the Board regulations.

#### **IV. CONSIDERATION OF SECTION 42(h) FACTORS**

Section 42(h) of the Act, 415 ILCS 5 42(h) (2022), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency;
7. whether the respondent has agreed to undertake a supplemental environmental project, which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform; and
8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Parties to the Stipulation state as follows:

1. Respondent operated the Facility without a CAAPP permit for years 2011 through 2019 and failed to timely submit AERs for operating years 2011 through 2020.
2. Respondent did not show due diligence in resolving the violations.
3. The civil penalty takes into account any economic benefit realized by the Respondent as a result of avoided or delayed compliance.
4. Complainant has determined, based upon the specific facts of this matter, that a civil penalty of SEVENTY-EIGHT THOUSAND EIGHT HUNDRED FIFTY DOLLARS (\$78,850.00), as well as Respondent's payment of TWENTY-ONE THOUSAND ONE HUNDRED FIFTY (\$21,150.00) in avoided permit fees, will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.
5. To Complainant's knowledge, Respondent has no previously adjudicated violations of the Act.
6. Self-disclosure is not at issue in this matter.
7. The settlement of this matter does not include a supplemental environmental project.
8. A Compliance Commitment Agreement was not at issue in this matter.

**V. TERMS OF SETTLEMENT**

**A. Penalty and Avoided Fee Payments**

The Respondent shall pay a civil penalty in the sum of SEVENTY-EIGHT THOUSAND EIGHT HUNDRED FIFTY DOLLARS (\$78,850.00) and avoided permit fees in the sum of TWENTY-ONE THOUSAND ONE HUNDRED FIFTY (\$21,150.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

**B. Interest and Default**

1. If the Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondent shall be in default and the remaining unpaid balance of the penalty and/or avoided permit fees, plus any accrued interest, shall be due and owing immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

**C. Payment Procedures**

1. All penalty payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund. Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency  
Fiscal Services  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

2. All avoided permit fee payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Permit and Inspection Fund. Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency  
Fiscal Services  
1021 North Grand Avenue East  
P.O. Box 19276

Springfield, Illinois 62794-9276

3. The case name and case number shall appear on the face of each certified check or money order.
4. A copy of each certified check or money order and any transmittal letter shall be sent to:

Kevin D. Barnai  
Assistant Attorney General  
Environmental Bureau South  
Illinois Attorney General's Office  
500 South Second St.  
Springfield, Illinois 62701

**D. Future Compliance**

1. The Respondent shall diligently pursue issuance of the required operating permit, including responding to all requests for additional information from Illinois EPA and updating the application as needed.
2. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, shall have the right of entry into and upon the Respondent's Facility which is the subject of this Stipulation, at all reasonable times for the purposes of conducting inspections and evaluating compliance status. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

3. This Stipulation in no way affects the responsibilities of the Respondent to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board Regulations.

4. The Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint.

**E. Release from Liability**

In consideration of the Respondent's payment of the civil penalty of SEVENTY-EIGHT THOUSAND EIGHT HUNDRED FIFTY DOLLARS (\$78,850.00) and avoided permit fees of TWENTY-ONE THOUSAND ONE HUNDRED FIFTY (\$21,150.00), its commitment to cease and desist as contained in Section V.D.4 above, completion of all activities required hereunder, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for the violations of the Act and Board regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed contemporaneously with this Stipulation. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondent.

**G. Enforcement and Modification of Stipulation**

1. Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

**H. Execution of Stipulation**

The undersigned representatives for the Parties to the Stipulation certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.

WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

AGREED:

FOR THE COMPLAINANT:

PEOPLE OF THE STATE OF ILLINOIS,  
by KWAME RAOUL,  
Attorney General of the  
State of Illinois

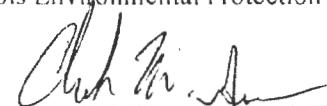
MATTHEW J. DUNN, Chief  
Environmental Enforcement/  
Asbestos Litigation Division

BY:   
ANDREW A. ARMSTRONG, Chief  
Environmental Bureau  
Assistant Attorney General

DATE: 07/06/2023

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

JOHN J. KIM, Director  
Illinois Environmental Protection Agency

BY:   
CHARLES W. GUNNARSON  
Chief Legal Counsel

DATE: 6/30/23

FOR THE RESPONDENT:

HAWKINS, INC., a Minnesota corporation,  
d/b/a VERTEX CHEMICAL CORPORATION

BY:   
TITLE: Vince Provenza, General Counsel  
DATE: June 26, 2023

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS, )  
by KWAME RAOUL, Attorney )  
General of the State of Illinois, )  
                                    )  
                                    )  
Complainant,                  )  
                                    )  
v.                              )     PCB No. 2024-  
                                    )     (Enforcement-Air)  
HAWKINS, INC., a Minnesota corporation, )  
d/b/a VERTEX CHEMICAL CORPORATION, )  
                                    )  
                                    )  
Respondent.                    )

**MOTION FOR RELIEF FROM HEARING REQUIREMENT**

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(c)(2) (2022), moves that the Illinois Pollution Control Board (“Board”) grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2022). In support of this motion, Complainant states as follows:

1.     The Complaint in this matter alleges violations of Sections 9(a), 9(b), and 39.5(6)(b) of the Act, 415 ILCS 5/9(a), (b) and 39.5(6)(b) (2022); Section 201.302(a) of the Board’s Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a); and Section 254.132(a) of the Illinois EPA’s Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a);
2.     Complainant filed its Complaint contemporaneously with the Stipulation.
3.     The parties have reached agreement on all outstanding issues in this matter.
4.     This agreement is presented to the Board in a Stipulation and Proposal for Settlement filed this same date.

5. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2022).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this Motion for Relief from Hearing Requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2022).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,  
by KWAME RAOUL, Attorney General  
of the State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

By: s/ Kevin D. Barnai  
Kevin D. Barnai, #6329422  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
500 South Second Street  
Springfield, Illinois 62706  
Office: (217) 782-9035  
Cell: (217) 685-4247  
*Kevin.Barnai@ilag.gov*

Dated: July 19, 2023

**CERTIFICATE OF SERVICE**

I, Kevin D. Barnai, an Assistant Attorney General, certify that on the 19th day of July 2023, I caused to be served by U.S. Certified Mail, the foregoing Notice of Filing, Complaint, Stipulation and Proposal for Settlement and Motion for Relief from Hearing Requirements to the parties named on the attached Service List, by depositing same in postage prepaid envelopes with the United States Postal Service located at 500 South Second Street, Springfield, Illinois 62701.

By: s/ Kevin D. Barnai  
Kevin D. Barnai, #6329422  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
500 South Second Street  
Springfield, Illinois 62706  
Office: (217) 782-9035  
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*Kevin.Barnai@ilag.gov*